

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ZACHARY M. SICURELLA,
Plaintiff,

vs.

HUNTINGTON BANK, et al.,
Defendants.

Case No. 1:19-cv-259

Black, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

Plaintiff, a prisoner at the Clermont County Jail, filed a prisoner civil rights complaint against defendants Huntington Bank, Ariel Roll, Rebecca Stewart, and CEO and/or Owner. On April 30, 2019, the undersigned issued a Report and Recommendation that the complaint be dismissed with prejudice. (Doc. 5). Plaintiff subsequently filed a motion to amend/correct (Doc. 6), which is hereby **GRANTED**.

This matter is before the Court for a *sua sponte* review of the complaint, as amended, to determine whether the complaint, or any portion of it, should be dismissed because it is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. *See* Prison Litigation Reform Act of 1995 § 804, 28 U.S.C. § 1915(e)(2)(B); § 805, 28 U.S.C. § 1915A(b).

In the amended complaint, plaintiff specifies that he intended to bring his claim of false imprisonment under both federal and state law. (Doc. 6 at PageID 59). He also adds additional allegations with respect to his claim of slander. Finally, the amended complaint adds a claim of civil conspiracy. (*Id.* at PageID 60).

Plaintiff's amended complaint should be dismissed. As noted in the Court's April 30, 2019 Report and Recommendation, plaintiff's allegations are insufficient to state a claim with an arguable basis in law over which this Court has subject matter jurisdiction. (*See* Doc. 5). The

allegations in the amended complaint fail to cure the deficiencies set forth in the Court's April 20, 2019 Report and Recommendation. Accordingly, the amended complaint should be dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B).

IT IS THEREFORE RECOMMENDED THAT:

1. The amended complaint be **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B).

2. The Court certify pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of any Order adopting this Report and Recommendation would not be taken in good faith, and therefore, deny plaintiff leave to appeal *in forma pauperis*. See *McGore v. Wigglesworth*, 114 F.3d 601 (6th Cir. 1997).

Date: 5/21/19


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).